

REMARKS

The Office Action dated November 18, 2003 has been reviewed and the Examiner's remarks carefully considered. Claims 1 and 3-15 were pending in the present application. Claim 1 has been amended. New claims 16-18 have been added, and no claims have been canceled. Support for new claims 16-18 may be found, *inter alia*, in Fig. 2(b) of the present application. Therefore, claims 1 and 3-18 are now pending in the application.

Telephone Conversation

In a telephone conversation on April 8, 2004, the Examiner indicated to Applicants' agent that claim 1 may be allowable over Kopetzky if the functional language in lines 4-5 ("for absorbing shock resulting from stopping the movement of the member") were written in a more structural form. Therefore, claim 1 has been amended in a manner believed to be acceptable to the Examiner.

Claim Rejections

By way of background, Applicants point out that the present application discloses a seat belt device with a shock absorbing member (14). The shock absorbing member (14) functions to absorb the shock resulting from the stopping movement of the buckle (2). Also, the shock absorbing member (14) holds a wire (3) connected to the pretensioner at a predetermined angle with respect to a direction of movement of the pretensioner.

Claims 1 and 3-15 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,588,677 to Kopetzky et al. (hereinafter "Kopetzky"). The rejections should be withdrawn because Kopetsky fails to disclose, teach or suggest the claimed invention. Claims 1, 13 and 14 are independent claims and are discussed below.

With regard to claim 1 of the present application, Kopetzky fails to disclose, teach, or suggest "a shock absorbing mechanism located to absorb substantially all shock resulting from stopping the movement of the member." (Emphasis added.) In the present application, as compressible shock absorbing member 14 slows and eventually stops the movement of buckle 2, it absorbs the shock resulting from stopping the buckle 2. (See, e.g., Fig. 2(b).) In

sharp contrast, Kopetzky discloses a decorative spring cuff 22 to cover the gap between the belt lock part 15 and angled portion 21. However, Kopetzky does not teach, disclose, or suggest any member to prevent a shock-producing collision between the belt lock part 15 and angled portion 21. In other words, in Kopetzky, shock will necessarily result from stopping the movement of belt lock part 15 (as it forcefully slams into angled portion 21), and Kopetzky does not disclose any shock absorbing member (including spring cuff 22) for absorbing this resulting shock. Therefore, the rejection to claim 1 should be withdrawn.

Further, Kopetsky fails to disclose, teach, or suggest a seat belt device with a shock absorbing member including “two compressible members, the second compressible member surrounding the first compressible member,” as recited in claim 1 of the present application. The Examiner admits that Kopetsky fails to disclose a second compressible member. However, the Examiner contends that it would have been obvious to include a second compressible member. The Examiner has failed to identify a teaching in the prior art that would motivate one of ordinary skill in the art to modify Kopetsky to arrive at the claimed invention. Thus, no *prima facie* case of obviousness has been made and the rejection should be withdrawn.

The only evidence in the record that provides a reason for providing a second compressible member is contained in the present application, which discloses that when the buckle is subject to a pretensioning force, shock may be exerted on the buckle and the cover. (See Application at [0029].) However, any reliance by the PTO on the present application would constitute impermissible hindsight reasoning.

Instead of providing evidence of a second compressible member in a prior art reference, the Examiner asserts that it would have been obvious to one of ordinary skill in the art “to include two compressible members, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.” Office Action at p. 3, *citing St. Regis Paper Co. v. Bemis Co.*, 549 F.2d 833, 193 U.S.P.Q. 8 (7th Cir. 1977). The Examiner’s reliance on *St. Regis* is misplaced.

In *St. Regis*, the court was presented with a situation in which a patentee obtained a patent on a bag having multiple plies. It was acknowledged, by the patentee in *Bemis*, that: (a) a previous patent contained all of the details of the patent except using multiple plies; and (b) that it was well known in the industry to use multiple plies to strengthen bags. *Id.* at 838. The court held that the resultant bag was not patentable because of the applicant combined two well known structures. *See id.* at 838-29. By way of contrast, however, in the examination of the present application, there has been no showing that it was well known in the art of seat belt devices to use a structure including two compressible members. Accordingly, *St. Regis* is inapplicable to this situation. Moreover, without a reference teaching the use of two compressible members, a rejection under 35 U.S.C. § 103(a) is improper. Reconsideration and withdrawal of the rejection is of claim 1 respectfully requested

Claims 3-12 and 15-18 depend from claim 1 and are allowable therewith, for at least the reasons set forth above, without regard to the further patentable limitations contained therein. For example, new claim 16 recites that “the shock absorbing mechanism is configured to prevent a direct collision between the member and a bracket connected to the pre-tensioner when the pre-tensioner is activated.” As discussed, Kopetzky discloses a spring cuff 22 to cover the gap between the belt lock part 15 and angled portion 21. However, Kopetzky does not teach, disclose, or suggest that the spring cuff 22 acts as a shock absorbing mechanism configured to prevent a direct collision between the belt lock part 15 and angled portion 21.

Claims 13 and 14 are directed to a seat belt device having “two compressible members.” Thus, the rejection of these two claims should be withdrawn for at least the reasons set forth above with regard to claim 1 without regard to the further patentable limitations contained therein.

Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would expedite allowance of the application.

Respectfully submitted,

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